

Recommendations for Improving Taxpayer Compliance and Department Administration

2007 Legislation Affecting the Department of Revenue

Utility Receipts Tax

IC 6-2.3-1-2 (Upon Passage) expands the definition of an affiliated group for purposes of the utility receipts tax.

IC 6-2.3-1-2.5 (Upon Passage) defines a controlled group of corporations for purposes of the utility receipts tax.

IC 6-2.3-4-6 (Upon Passage) provides that gross receipts from the sale of utility services between members of a controlled group of corporations are exempt from the utility receipts tax if the seller is the producer of the utility service and the purchaser is the end user, and the seller and user exist in the same or adjacent locations.

IC 6-2.3-5-3 (July 1, 2007) provides that the resource recovery tax deduction allowed for the utility receipts tax will be disallowed if the taxpayer is convicted of a criminal violation under IC 13 (environmental law).

IC 6-2.3-6-1 (December 16, 2007) increases the threshold for the annual unpaid utility receipts tax liability from \$1,000 to \$2,500 before quarterly estimated payments are required to be made, and reduces the threshold for EFT payments from \$10,000 to \$5,000 for taxable years beginning after December 15, 2007.

Sales and Use Tax

IC 6-2.5-1-11.3 (January 1, 2008) adds a definition of ancillary services for purposes of taxation of telecommunications services.

IC 6-2.5-1-20.3 (January 1, 2008) defines intrastate telecommunications service as telecommunications service that originates and terminates in Indiana.

IC 6-2.5-1-22.3 (January 1, 2008) is added to define prepaid calling service as the term is defined in IC 6-2.5-12-11.

IC 6-2.5-1-22.4 (January 1, 2008) defines prepaid wireless calling service to mean telecommunications service that provides the right to use mobile wireless services that must be paid for in advance, and is sold in predetermined units or dollars that declines with use.

IC 6-2.5-1-27.5 (January 1, 2008) defines telecommunications services to mean electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. The term includes a transmission in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission regardless of whether the service is referred to as voice over internet protocol services, or is classified by the FCC as enhanced or value added. The term does not include:

1. Data processing and information services that allow data to be generated, acquired, processed, stored or retrieved and delivered by an electronic transmission to a purchaser.

2. Installation or maintenance of wiring or equipment on a customer's premises.
3. Tangible personal property.
4. Advertising including but not limited to directory advertising.
5. Billing and collection services provided to third parties.
6. Internet access service.
7. Radio and television audio and video programming services, regardless of the medium, including cable service and audio and video programming services delivered by commercial mobile radio service providers.
8. Ancillary services.
9. Digital products delivered electronically including software, music, video, reading materials, and ring tones.

IC 6-2.5-1-29 (January 1, 2008) defines value added nonvoice data service to mean a service that otherwise meets the definition of telecommunications services in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance or routing.

IC 6-2.5-3-2 (July 1, 2007) provides a limited use tax exemption for an aircraft that is titled or registered in another state and is temporarily brought to Indiana to be repaired, refurbished , remanufactured or subjected to a prepurchase evaluation.

IC 6-2.5-3-7 (July 1, 2007) provides that a purchaser purchasing tangible personal property for use in public transportation may verify his exemption by providing his name, address, and motor carrier number, USDOT number, or any other identifying number authorized by the Department.

IC 6-2.5-4-5 (June 30, 2007) extends the sales tax exemption for the low income home energy assistance program to July 1, 2009.

IC 6-2.5-4-6 (January 1, 2008) states that a person is making a retail transaction when the person sells an intrastate telecommunications service, and receives gross retail income from billings or statements rendered to customers. A person is not providing telecommunications services when the person furnishes telecommunications to another person who is providing prepaid calling services or prepaid wireless calling services in a retail transaction to customers who access the services through the use of an access number, or the person sells telecommunications services to a public utility, the person furnishes intrastate mobile telecommunications service to a customer with a place of primary use that is not within Indiana, or the person sells value added non voice data services in a retail transaction to a customer.

IC 6-2.5-4-14 (July 1, 2007) provides that the department of administration and universities are required to provide a list to the Department of every person desiring to sell tangible personal property to the state or to a university, and eliminates the provision that a person providing services be included on the list. Requires the Department to notify the department of administration or the university if the person is not a registered retail merchant or is delinquent in remitting sales tax.

IC 6-2.5-5-3 (July 1, 2007) clarifies that distribution equipment and transmission equipment of a public utility engaged in generating electricity is not exempt from the sales tax as equipment directly used in direct production of electricity.

IC 6-2.5-5-8 (July 1, 2008) provides that an aircraft acquired by a person for rental or leasing is not exempt from the sales tax unless the person establishes that the annual amount of the lease revenue derived from leasing the aircraft is equal to or greater than 10% of the cost of the aircraft if the cost was less than \$1,000,000, or 7.5% if the cost is equal to or greater than \$1,000,000.

IC 6-2.5-5-8 (July 1, 2007) as amended by SEA 500-2007 is further amended to provide that the provision concerning aircraft purchased exempt from the sales tax for leasing and required to meet certain financial thresholds to be considered engaged in leasing does not take effect until July 1, 2008 instead of July 1, 2007.

IC 6-2.5-5-12 (July 1, 2007) deletes language that provides a sales tax exemption for public utilities that operate wastewater treatment plants, and replaces it with language in IC 6-2.5-5-12.5.

IC 6-2.5-5-12.5 (July 1, 2007) is added to provide a sales tax exemption for purchases of tangible personal property related to collection plant and expenses, system pumping plant and expenses, treatment and disposal plant and expenses, and the purchase is made by a public utility or a person that contracts with a municipality for the collection, treatment, or processing of wastewater.

IC 6-2.5-5-16.5 (June 30, 2007) extends the sales tax exemption for the low income home energy assistance program until July 1, 2009.

IC 6-2.5-5-35 (July 1, 2007) provides that electricity, gas, water or steam are not considered a consumable exempt from the sales tax if used by restaurants or hotels.

IC 6-2.5-5-39 (July 1, 2007) eliminates the exemption for exporting an aircraft from Indiana within 30 days and reinstates the provision in IC 6-2.5-5-42.

IC 6-2.5-5-42 (July 1, 2007) provides that an aircraft is exempt from the sales tax if the purchaser is a nonresident, and takes the aircraft outside of Indiana within 30 days after accepting delivery, or a repair, refurbishment, or remanufacture of the aircraft is completed. The purchaser is required to supply the seller with a copy of the purchaser's registration or title for the state where the aircraft is registered or titled within 60 days.

IC 6-2.5-6-1 (January 1, 2008) reduces the threshold for remitting the sales tax by EFT from \$10,000 to \$5,000.

IC 6-2.5-6-10 (July 1, 2007) changes the collection allowance provided by the state to retailers. The collection allowance remains at 0.83% on the first \$60,000 in sales tax liability accrued, 0.6% on the sales tax liability between \$60,001 and \$600,000, and for sales tax remittances greater than \$600,000 the collection allowance is 0.3%.

IC 6-2.5-7-5 (July 1, 2007) extends the time that the E85 sales tax deduction may be claimed until June 30, 2020. Increases the amount of the E85 sales tax deduction from \$.10 to \$.18 per gallon, and reduces the total amount of sales tax deductions that are available to all taxpayers for all years from \$2,000,000 to \$1,000,000.

IC 6-2.5-7-5.5 (July 1, 2007) provides that to the extent that funds are available from the corn market development account, the \$1,000,000 cap for the E85 sales tax deduction does not apply. The Department will annually publish in the Indiana Register a notice of the amount of funds available for the reimbursement required from the corn market development fund for the E85 deduction.

IC 6-2.5-8-1 (January 1, 2008) provides the county assessor will receive the information related to new sales tax registrations if the duties of the township assessor are transferred to the county assessor.

IC 6-2.5-8-7 (July 1, 2007) stipulates that the Department shall revoke a registered retail merchant after 5 days notice to the retail merchant if the Department finds in a public hearing that the holder of the permit has violated any of the professional gambling statutes. This requirement is eliminated with the adoption of the memorandum of understanding with the gaming commission.

IC 6-2.5-8-8 (January 1, 2008) is amended to provide that a seller that accepts an incomplete exemption certificate is not relieved of the duty to collect gross retail tax on the sale unless the seller obtains a fully completed exemption certificate within 90 days after the sale. If the seller has accepted an incomplete exemption certificate, and the Department requests the seller to substantiate the exemption, the seller has 120 days to provide a completed exemption certificate, or prove by other means that the transaction was an exempt transaction.

IC 6-2.5-8-10 (Upon Passage) is repealed. This section previously required a person to register as a retail merchant even if they were not located in Indiana, but solicited business, sold property to the state or a university, or was closely related to another entity that maintained a place of business in Indiana.

IC 6-2.5-10-1 (July 1, 2007) dedicates one hundred twenty-five thousandths of one percent to the public mass transportation fund from the deposits of the sales tax in the general fund.

IC 6-2.5-11-10 (January 1, 2008) is amended to provide that a certified service provider (CSP) or a seller using a certified automated system that obtains a certification from the Department is not liable for sales tax collection errors that result from reliance on the Department's certification. The CSP or the seller using a certified automated system must revise the incorrect classification within 10 days after receiving notice of the determination from the Department. If the error is not corrected within 10 days, the CSP or the seller using a certified automated system is liable for failure to collect the correct amount of sales tax due.

IC 6-2.5-11-11 (January 1, 2008) is added to provide that a purchaser is relieved from liability for penalties for failure to pay the amount of tax due if the purchaser's seller, a purchaser with a direct pay permit, or a purchaser relied on information provided by the Department regarding tax rates, or the taxability matrix. A purchaser is relieved from liability and interest for failure to pay the correct amount of sales tax due.

IC 6-2.5-11-12 (January 1, 2008) is added to require the Department to review software submitted to the governing board of the streamlined sales and use tax agreement for certification as a certified automated system.

IC 6-2.5-12-10 (January 1, 2008) amends the definition of post paid calling service to exclude prepaid wireless calling service for purposes of sourcing telecommunications.

IC 6-2.5-12-11.5 (January 1, 2008) is added to define prepaid wireless calling service as a telecommunications service that provides the right to use mobile wireless service as well as other non-telecommunications services.

IC 6-2.5-12-16 (January 1, 2008) is amended to determine the manner of sourcing for prepaid wireless calling services.

IC 6-2.5-13-1 (January 1, 2008) amends the general sourcing provisions to provide that Internet access services and ancillary services will be sourced in accordance with the telecommunications sourcing provisions.

IC 6-2.5-13-2 (Upon Passage) is repealed. This section provided for the multiple point of use exemption provision in regards to sourcing of digital goods and computer software delivered electronically.

Adjusted Gross Income Tax

IC 6-3-1-3.5 (January 1, 2008) provides that qualified military income that was included in federal adjusted gross income is deducted for purposes of determining Indiana adjusted gross income.

IC 6-3-1-3.5 (January 1, 2008) requires corporations to add back any deduction for dividends paid to shareholders of a captive real estate investment trust.

IC 6-3-1-3.5 (January 1, 2008) adds a modification to adjusted gross income to provide a subtract off for patent income that is included in federal adjusted gross income or federal taxable income for corporations.

IC 6-3-1-11 (January 1, 2007 - Retroactive) updates the Indiana Code and the definition of adjusted gross income to correspond to the federal definition of adjusted gross income contained in the Internal Revenue Code. Provisions that are incorporated into the definition of adjusted gross income include an extension of the deduction for higher education expenses, a temporary extension of the deduction for teachers' classroom expenses, a deduction for environmental remediation expenses, and depreciation of leasehold and restaurant improvements.

IC 6-3-1-34 (January 1, 2008) is added to define qualified military income as wages paid to a member of the reserve component of the armed forces or the National Guard for full time service on involuntary orders, or the period during which the member is mobilized and deployed, or the period during which the person's National Guard unit is federalized.

IC 6-3-1-34.5 (January 1, 2008) defines a captive real estate investment trust as a corporation, trust or an association that is considered a real estate investment trust under Section 856 of the Internal Revenue Code,

Quality That Counts **Spotlight**



Janis Wright

For more than 10 months, Systems Analyst Specialist Janis Wright (left) spent many hours working to ensure the Food and Beverage county tax distributions are accurate. Wright worked with several members of the Department's leadership team to explain how each dollar was disbursed. She balanced her current workload along with taking on this special project, and spent more than 200 additional hours outside of regular business hours producing the necessary reports needed to verify accuracy.

Right People in the Right Jobs

Customer Focus

Efficiency

Right People in the Right Jobs

that is not regularly traded on an established securities market, and in which more than 50% of the voting power or shares are owned or controlled by a single entity.

IC 6-3-2-4 (January 1, 2008) increases the military pay and military retirement income tax deduction from \$2,000 to \$5,000.

IC 6-3-2-9 (Upon Passage) is amended to change the term used to describe a person with disabilities.

IC 6-3-2-20 (July 1, 2007) makes a technical change to change the word appointment to apportionment.

IC 6-3-2-21.7 (January 1, 2008) adds an exemption from income for qualified patents. A qualified patent is a utility patent or a plant patent issued after December 31, 2007 for an invention resulting from a development process conducted in Indiana. The term does not include a design patent. A qualified taxpayer is an individual or corporation with less than 500 employees, or a nonprofit organization, and is domiciled in Indiana. The exemption from income includes licensing fees or other income received for the use of the patent, royalties received for the infringement, receipts from the sale of a qualified patent, or income from the taxpayer's own use of the patent to produce the claimed invention. The total amount of exemptions claimed by a taxpayer in a taxable year may not exceed \$5,000,000. The exemption may not be claimed for more than 10 years. For the first 5 years, 50% of the amount of income received from the patent is exempt, and the percentage declines by 10% each year starting in the sixth year that the exemption is claimed. The taxpayer is required to claim the exemption on the qualified taxpayer's state tax return, and shall submit all information that the Department determines is necessary for the determination of the exemption. Annually by December 1, the Department shall provide an evaluation report to the legislative council, the budget committee, and the Indiana economic development corporation indicating the number of taxpayers claiming the exemption, the total of all exemptions claimed, and the North American Industry Classification System code for each taxpayer claiming the exemption including the number of patents for which an exemption was claimed.

IC 6-3-12 (January 1, 2007 - Retroactive) provides that an owner of a college choice 529 education savings plan that makes a non-qualified withdrawal must repay all or part of the credit in the taxable year in which the non-qualified withdrawal was made. The amount that the taxpayer must repay is the lesser of 20% of the total amount of the non-qualified withdrawals made during the taxable year from the account, or the excess of the amount of all credits provided that are claimed by a taxpayer with respect to the taxpayer's contributions to the account for all taxable years beginning after December 31, 2006. Any required repayment will be made on the account owner's annual income tax return for any taxable year in which a non-qualified withdrawal is made.

IC 6-3-4-1.5 (July 1, 2007) provides that if a professional preparer files more than 100 tax returns in a calendar year for individuals, the paid preparer shall file returns for individuals in an electronic format for the subsequent year as specified by the Department.

IC 6-3-4-4.1 (December 16, 2007) provides that if an individual's annual unpaid liability is less than \$1,000, the taxpayer is not required to file quarterly estimated payments. The previous amount was \$400. A corporation for taxable years beginning after December 15, 2007, is not required to file quarterly estimated payments if its annual unpaid liability is less than \$2,500. The previous limitation was \$1,000. Corporations required to make quarterly estimated payments are permitted to use the annualized income installment method calculated in the manner provided by Section 6655(e) of the Internal Revenue Code as applied to the corporation's adjusted gross income tax liability. This section also reduces the filing threshold for EFT payments for corporate estimated taxes from \$10,000 to \$5,000.

IC 6-3-4-8.1 (January 1, 2008) changes the requirement for monthly withholding taxes to be remitted by EFT from \$10,000 to \$5,000.

IC 6-3-4-12 (January 1, 2008) requires partnerships that have nonresident partners to file a composite return including all nonresident partners on the return. This section also provides that the nonresident is not prohibited from being part of the composite return if they have other income from Indiana.

IC 6-3-4-13 (January 1, 2008) requires S corporations that have nonresident shareholders to file a composite return for all nonresident shareholders, and includes the nonresident shareholder even if a nonresident shareholder has other income from Indiana.

Tax Credits

IC 6-3.1-1-3 (January 1, 2007 - Retroactive) adds the Hoosier alternative fuel vehicle manufacturer tax credit to the list of credits where the taxpayer cannot claim multiple tax credits for the same project.

IC 6-3.1-13-27 (July 1, 2007) changes an internal reference within the EDGE tax credit.

IC 6-3.1-24-9 (July 1, 2007) provides that a person providing qualified investment capital may claim the venture capital investment tax credit for investments made before January 1, 2013. The previous law required the investment to be made before January 1, 2009.

IC 6-3.1-27-9.5 (January 1, 2008) provides that the credit created for cellulosic ethanol is not included in the \$50,000,000 cap for biodiesel production and blending, and for ethanol production.

IC 6-3.1-28-9 (July 1, 2007) provides that the ethanol production credit may not be sold, assigned, conveyed, or otherwise transferred.

IC 6-3.1-28-11 (January 1, 2008) defines the term cellulosic ethanol. This section creates a new tax credit to provide \$20,000,000 for all taxable years for all taxpayers a credit for a taxpayer who produces at least 20,000,000 gallons of cellulosic ethanol in a taxable year. The credit may only be applied against the state tax liability attributable to business activity taking place at the Indiana facility at which the cellulosic ethanol was produced.

IC 6-3.1-29-6 (Upon Passage) provides that the coal gasification tax credit includes a facility that is located in Indiana and that converts coal into synthesis gas that can be used as a substitute for natural gas.

IC 6-3.1-29-15 (Upon Passage) provides that the coal gasification tax credit will be awarded for the development of a facility that will serve gas utility consumers, in addition to electric utility consumers that are already allowed for in the statute.

IC 6-3.1-29-20.5 (Upon Passage) provides that all or part of the integrated coal gasification power plant tax credit that a taxpayer is entitled to is assignable to one or more utilities if the assignment has been approved by the utility regulatory commission, and provides for the purchase of electricity or substitute natural gas by the utility from the taxpayer. If the credit is assigned, it must be taken in twenty annual installments. The total amount of credit that may be assigned is the total credit awarded divided by twenty and then multiplied by the percentage of Indiana coal used in the taxpayer's integrated coal gasification power plant.

IC 6-3.1-31 (January 1, 2007 - Retroactive) creates a new tax credit for offering health benefit plans. An employer that did not provide health insurance to his employees prior to January 1, 2007 and makes health insurance available to the employees is entitled to a credit for the first two years in which the taxpayer makes the plan available if the employer provides that participation is at the employee's election, and the employee may have the premiums withheld from his paycheck. The amount of the credit is the lesser of \$2,500 or \$50 multiplied by the number of employees enrolled in the health benefit plan. A taxpayer will claim the credit on the taxpayer's state tax return, and is required to make health insurance available to the employer's employees for at least two years after the taxable year the employer first offers the health benefit plan.

IC 6-3.1-31.2 (January 1, 2007 - Retroactive) creates a small employer qualified wellness program tax credit. A small employer is an employer that is actively engaged in business, and has at least two but not more than 100 eligible employees with a majority of them working in Indiana. A small employer is entitled to a tax credit equal to 50% of the costs incurred by the taxpayer during the taxable year for providing a qualified wellness program for the employer's employees during the taxable year. The credit can be carried forward but cannot be carried back or refunded. To receive the credit the employer must provide a copy of the certificate received from the state department of health and claim the credit on the taxpayer's state income tax return. Beginning in 2009 and each odd numbered year thereafter, the Department shall report to the legislative council concerning the use of the credit, and will indicate the number of taxpayers claiming and receiving the credit, reports of abuse of the credit and any other information concerning the use and effectiveness of the credit.

IC 6-3.1-31.5 (January 1, 2008) creates a tax credit equal to the lesser of 20% of the amount of expenditures on energy star heating and cooling equipment incurred by the taxpayer in a taxable year, or \$100. A pass through entity is eligible for the credit, and the credit may not exceed the taxpayer's tax liability. There is no carry back, carry forward, or refund of any unused credit. The total amount of tax credits may not exceed \$1,000,000 in a state fiscal year.

IC 6-3.1-31.5-13 (January 1, 2008) provides that the energy savings tax credit for energy star heating and cooling equipment may not be awarded to a taxpayer for taxable years beginning after December 31, 2010.

IC 6-3.1-31.9 (January 1, 2007 - Retroactive) creates the Hoosier alternative fuel vehicle manufacturer tax credit. There is a new tax credit that provides an income tax credit of up to 15% of the qualified investment. A qualified investment includes the purchase of new equipment used for telecommunications, production, manufacturing, fabrication, assembly, finishing, distribution, transportation, or logistical distribution equipment. The term also includes computer equipment, costs associated with modernization of equipment and facilities, onsite infrastructure improvements, construction of new manufacturing facilities, retooling existing machinery and equipment, and costs associated with the construction of special purpose buildings that are certified by the Indiana economic development corporation (IEDC) as being eligible for the credit. An alternative fuel vehicle is any vehicle designed to operate using methanol, denatured ethanol, E85, natural gas, liquefied petroleum gas, hydrogen, coal derived liquid fuels, non alcohol fuels derived from biological material, P-Series fuels, or electricity. The IEDC may make credit awards to foster job creation, reduce dependency on foreign oil, and reduce air pollution. A taxpayer may carry forward an unused credit for nine years. A person that proposes a project to manufacture or assemble alternative fuel vehicles may apply to the IEDC before the qualified investment is made. After receipt of the application, the IEDC may enter into an agreement with the applicant. A taxpayer claiming the credit is required to submit a copy of the certificate of verification from the IEDC. If a taxpayer does not comply with the agreement, the Department after notification from the IEDC may make an assessment against the taxpayer up to the amount of previously allowed credits. The IEDC may not award any credits for qualified investments made after December 31, 2012

County Adjusted Gross Income Tax (CAGIT)

IC 6-3.5-1.1-2 (Upon Passage) provides that a county wishing to impose CAGIT must adopt an ordinance after March 31 and before August 1 of a year. The ordinance will take effect on October 1.

IC 6-3.5-1.1-2.3 (Upon Passage) provides that if Jasper County desires to increase CAGIT to fund a jail, the ordinance must be adopted before August 1 to be effective on October 1 of the year of adoption. If the ordinance is adopted after August 1, the increased tax rate will not be effective until October 1 of the subsequent year.

IC 6-3.5-1.1-2.6 (Upon Passage) provides that Parke County may adopt an ordinance to impose additional CAGIT up to 0.25% for the cost of a capital trial.

IC 6-3.5-1.1-3 (Upon Passage) provides that an ordinance to increase CAGIT must be adopted after March 31 and before August 1 to be effective on October 1 of the year the ordinance is adopted.

IC 6-3.5-1.1-3.1 (Upon Passage) provides that an ordinance to decrease CAGIT must be adopted after March 31 and before August 1 to be effective on October 1 of the year the ordinance is adopted.

IC 6-3.5-1.1-4 (Upon Passage) provides that an ordinance to rescind CAGIT must be adopted after March 31 and before August 1 to be effective on October 1 of the year the ordinance is adopted.

IC 6-3.5-1.1-7 (Upon Passage) is amended to change the term used to describe a person with disabilities.

IC 6-3.5-1.1-9 (Upon Passage) provides that the certified distribution that the Department provides to the county auditor shall include information on the part of the certification that is attributable to additional rates adopted for property tax replacement credits, additional public safety, or property tax relief. The certification for the additional information must be provided to each county auditor by September 1 of each year.

IC 6-3.5-1.1-24 (Upon Passage) authorizes a county to adopt an ordinance by August 1 to impose an additional CAGIT effective on October 1. The additional rate that is determined is effective for two years. A county may not decrease or rescind the tax rate once it is imposed. One-half of the revenue from the tax rate imposed shall be deposited in the county stabilization fund. The maximum rate that a county may impose under this section to replace property tax levy growth is 1%.

IC 6-3.5-1.1-25 (Upon Passage) provides that if a county has imposed a tax rate under section 24 for property tax replacement credits and section 26 for property tax relief, the county may adopt an ordinance to provide an additional tax rate for public safety. The maximum tax rate is the lesser of 0.25% or the rate imposed under section 26. The tax rate may be imposed or rescinded by adopting an ordinance by August 1 of a year to be effective on October 1 of the same year.

IC 6-3.5-1.1-26 (Upon Passage) provides that a county may impose an additional CAGIT rate of up to 1% imposed at increments of 0.05%. The rate imposed is to be used for property tax replacement credits for all property, homestead credits, or property tax replacement credits for qualified residential property. The rate is in addition to any other rate imposed. A county is not required to impose any other tax before imposing a tax rate under this section. The rate will be imposed, rescinded, increased, or decreased in the same manner and at the same time as required under section 24.

Levy Freeze Limits

IC 6-3.5-1.5 (Upon Passage) requires the Department to be involved with the department of local government finance in determining the levy freeze limits that are created.

County Wheel Tax

IC 6-3.5-5-9.5 (July 1, 2007) provides that an owner of a commercial motor vehicle paying an apportioned registration under the International Registration Plan that is required to pay a wheel tax shall pay an apportioned wheel tax based on Indiana miles compared to total miles. The apportioned wheel tax shall be paid at the same time and in the same manner as the commercial motor vehicle excise tax. This provision only applies to a wheel tax adopted after June 30, 2007. A voucher from the Department showing proof of payment may be accepted by the bureau of motor vehicles in lieu of the payment.

IC 6-3.5-5-13 (July 1, 2007) provides that if a wheel tax for a commercial vehicle is collected directly by the Department, the Department shall remit the wheel tax and file a wheel tax collections report with the appropriate county treasurer, and file a wheel tax collections report with the county auditor by the tenth day of the month following the month that the wheel tax was collected.

County Option Income Tax (COIT)

IC 6-3.5-6-8 (Upon Passage) provides that a county imposing COIT must adopt an ordinance after March 31 and before August 1 to be effective on October 1.

IC 6-3.5-6-9 (Upon Passage) authorizes a county to adopt an ordinance increasing the COIT rate if the ordinance is adopted after March 31 and before August 1 to be effective on October 1.

IC 6-3.5-6-11 (Upon Passage) provides that if a county desires to freeze its COIT rate, it must adopt an ordinance after March 31 and before August 1 to be effective on October 1.

IC 6-3.5-6-12 (Upon Passage) provides that if a county is rescinding its COIT, the ordinance must be adopted after March 31 and before August 1 to be effective on October 1.

Quality That Counts Spotlight

Diana Eaton

Business Administrator Diana Eaton's initiative, determination and dedication in preparing the Department for the launch of PeopleSoft Financials have earned her a place on the growing list of *Quality That Counts* Award recipients. Eaton put in more than 50 hours of work outside of regular business hours, including weekends, to get ready for PeopleSoft Financials to go live. Eaton also took on the responsibility of teaching her co-workers the basics of PeopleSoft Financials.

After receiving the Quality That Counts Award, Eaton replied, "Thank you very much. I didn't expect this award at all."



Right people in the right jobs

Customer Focus

Efficiency

Right people in the right jobs

INDIANA DEPARTMENT OF REVENUE ANNUAL REPORT - October 1, 2007

Effectiveness

Customer Focus

Right People in the Right Jobs

Right people in the

IC 6-3.5-6-12.5 (Upon Passage) provides that a county may decrease its COIT rate by adopting an ordinance after March 31 and before August 1 to be effective on October 1.

IC 6-3.5-6-17 (Upon Passage) provides that the Department will notify the county auditor and the department of local government finance the amount of additional certified distribution based on additional rates imposed for increased homestead credits and the county stabilization fund, public safety or property tax relief.

IC 6-3.5-6-18 (Upon Passage) prohibits the use of the additional COIT revenues under sections 30, 31, and 32 to be used for financing of a qualified economic development tax project under IC 36-7-27.

IC 6-3.5-6-24 (Upon Passage) is amended to change the term used to describe a person with disabilities.

IC 6-3.5-6-28 (January 1, 2007) provides that Howard County's additional COIT that was previously authorized to be imposed at 0.25% may now be imposed at any increment up to 0.25%. This section also requires the Department to separately designate a tax rate imposed under this section in any tax form as the Howard County jail operating and maintenance income tax.

IC 6-3.5-6-29 (Upon Passage) provides that Scott County has until July 31 to adopt an ordinance to impose the additional COIT authorized for a county jail revenue fund to be imposed on October 1.

IC 6-3.5-6-30 (Upon Passage) authorizes a county to impose an additional COIT rate of up to 1% with the additional funds to be used partially for homestead credits and partially to be deposited into the county stabilization fund (one-third of the tax revenue for Marion County and fifty percent of the tax revenue in all other counties).

IC 6-3.5-6-31 (Upon Passage) authorizes a county to impose an additional COIT rate for public safety. The additional rate for public safety in Marion County may be imposed at a rate of up to 0.5% if Marion County imposed the additional rate provided for in IC 6-3.5-6-30. In all other counties, each county can impose an additional rate for public safety of up to 0.25% or the tax rate imposed under IC 6-3.5-6-32, whichever is less. All counties other than Marion County must impose an additional rate under IC 6-3.5-6-30 and IC 6-3.5-6-32 before they are eligible to impose the additional rate for public safety.

IC 6-3.5-6-32 (Upon Passage) authorizes a county to impose an additional COIT rate of up to one percent to be used to provide property tax relief. A county is not required to adopt any other tax before imposing a tax rate under this section.

IC 6-3.5-6-33 (Upon Passage) authorizes Monroe County to impose an additional COIT rate of up to 0.25% for a juvenile detention center.

County Economic Development Income Tax (CEDIT)

IC 6-3.5-7-5 (Upon Passage) changes the dates to adopt an ordinance to impose, increase, decrease, or rescind the county economic development income tax (CEDIT). An ordinance must be adopted after March 31 and before August 1 to be effective on October 1.

IC 6-3.5-7-6 (Upon Passage) changes the dates to adopt an ordinance to increase or decrease CEDIT. An ordinance must be adopted after March 31 and before August 1 to be effective on October 1.

IC 6-3.5-7-9 (Upon Passage) is amended to change the term used to describe a person with disabilities.

IC 6-3.5-7-28 (Upon Passage) authorizes a county that is a member of a regional development authority to adopt an ordinance to increase the county's CEDIT rate by 0.05% and requires the revenue to be deposited in the county regional development authority fund.

Municipal Option Income Tax

IC 6-3.5-8-17 (Upon Passage) is amended to change the term used to describe a person with disabilities.

Inheritance and Estates Tax

IC 6-4.1-10-1 (July 1, 2007) provides that if an inheritance tax payment that was erroneously or illegally collected is not refunded within 90 days after the refund claim is filed, interest accrues at 6% per annum from the date the claim was filed until the refund is paid.

Financial Institutions Tax

IC 6-5.5-1-2 (January 1, 2008) provides a subtract off for patent income that is included in federal taxable income of a financial institution.

IC 6-5.5-1-2 (January 1, 2008) adds a modification to the financial institutions tax to provide a subtract off for patent income that is included in adjusted gross income for financial institutions.

IC 6-5.5-6-3 (January 1, 2008) provides that a taxpayer subject to the financial institutions tax is not required to make quarterly estimated tax payments if the annual tax liability is less than \$2,500. This amount was previously set at \$1,000. This section also reduces the threshold for filing EFT payments from \$10,000 to \$5,000.

Gasoline Tax

IC 6-6-1.1-502 (January 1, 2008) reduces the threshold for making EFT payments in regard to gasoline and special fuel taxes from \$10,000 to \$5,000.

Special Fuel Tax

IC 6-6-2.5-30.5 (July 1, 2007) provides an exemption from the special fuel tax for special fuel that has a nominal biodiesel content of at least 20%, is only used for personal use, and the individual using the special fuel produced the special fuel. The maximum number of gallons that the person may claim exempt is equal to 2,000 gallons divided by the average percentage volume of biodiesel in each gallon used by the individual.

Motor Carrier Fuel Tax

IC 6-6-4.1-2 (January 1, 2008) provides an exemption from the motor carrier fuel tax for a pickup truck that is modified to include a third free rotating axle where the gross vehicle weight is less than 26,000 pounds, and the vehicle is operated for personal and not commercial use.

Aircraft License Excise Tax

IC 6-6-6.5-1 (July 1, 2007) defines (for purposes of the aircraft license excise tax) a repair station to be a person who holds a repair station certificate that was issued to the person by the Federal Aviation Administration under 14 CFR Part 145.

IC 6-6-6.5-2 (July 1, 2007) provides that if a nonresident bases an aircraft in Indiana with a repair station solely for repairing, remodeling, or refurbishing the aircraft, the nonresident is not required to register the aircraft with the Department. The repair station is required to report quarterly to the Department the number of the aircraft that were based in this state at the end of each calendar quarter.

Cigarette Tax

IC 6-7-1-12 (July 1, 2007) increases the cigarette tax from \$.555 to \$.995 per pack.

IC 6-7-1-17 (July 1, 2007) increases the discount that cigarette distributors are allowed to retain from two-thirds of a cent per pack to one and two-tenths cents per pack.

IC 6-7-1-17.5 (July 1, 2007) allows a bad debt deduction if a cigarette distributor fails to collect from a retailer the cigarette tax for cigarettes that the distributor has distributed to the retailer.

IC 6-7-1-28.1 (August 1, 2007) changes the distribution of the cigarette tax to provide that 27.05% of the money is deposited in the Indiana check-up plan trust fund, 2.46% is deposited in the state general fund to pay for Medicaid provider reimbursements, 4.1% is deposited in the state general fund to be used to pay for any appropriation for a health initiative, and 2.46% is used to reimburse the general fund for the income tax credit for offering health benefit plans. All funds currently receiving cigarette tax funding will have their percentage of distribution reduced.

IC 6-7-2-7 (July 1, 2007) increases the tax on other tobacco products from 18% to 24% of the wholesale price of the other tobacco products.

IC 6-7-2-14.5 (July 1, 2007) allows a bad debt deduction if another tobacco products distributor fails to collect from a retailer the other tobacco products tax for the other tobacco products that the distributor has delivered to the retailer.

IC 6-7-2-17 (August 1, 2007) provides that 25% of the taxes, fees, fines, or penalties relating to the other tobacco products will go to the affordable housing and community development fund.

Miscellaneous

IC 6-8-12 (Upon Passage) adds a new chapter to provide the NFL and all of its affiliates with an exemption from all taxes for property owned, revenues received, and expenditures and transactions of the entities. This chapter also provides that tickets sold for the Super Bowl will not be subject to the admissions tax.

Tax Administration

IC 6-8.1-1-1 (Upon Passage) is amended to include the slot machine wagering tax as a listed tax for purposes of tax administration by the Department.

IC 6-8.1-3-2.5 (July 1, 2007) provides that the Department may adopt production quotas or goals for employees, but it is still prohibited from basing an employee evaluation on the amount of revenue collected or tax liability assessed.

IC 6-8.1-3-20 (July 1, 2007) requires the Department to enter into a memorandum of understanding with the gaming commission authorizing the commission's gaming enforcement division to conduct actions to revoke retail merchant's certificates in the manner specified in the memorandum of understanding.

IC 6-8.1-6-3 (January 1, 2008) provides that an electronic payment will be considered timely on the date the taxpayer issues the payment order for the electronic funds transfer, instead of current law which provides that the payment is considered timely on the date the taxpayer's bank account is charged.

IC 6-8.1-7-1 (January 1, 2008) provides that the county assessor is included along with the township assessor as an office that can receive the name and address of retail merchants.

IC 6-8.1-8-8 (July 1, 2007) provides that a collection agency that makes a claim to a financial institution on behalf of the Department shall submit proof of employment, a fee of \$10 for each claim, a notice of levy, instruction for remitting the funds to the collection agency, and a stamped self addressed return envelope. The section also provides that a financial institution or collection agency may not pass along the \$10 fee to the Department, the taxpayer or any other individual or unit of government.

IC 6-8.1-8-8 (July 1, 2007) deletes the language that was placed in this section by SEA 559 which would require a collection agency to pay a \$10 fee for each claim filed with a financial institution.

IC 6-8.1-8-8.7 (July 1, 2007) requires the Department to operate a data match system with each financial institution doing business in Indiana. Each financial institution doing business in Indiana shall provide information to the Department on all account holders. The information shall be supplied by comparing records maintained by the financial institution with records provided by the Department, or by having the child support bureau make its reports available to the Department. All information must be provided on a quarterly basis. When there is a determination that a match has been made, the Department shall provide a notice of the match if action is to be initiated to levy the account. The Department or the collection agency is required to pay the financial institution performing the data match a fee established by the Department of at least \$5 for each data match.

IC 6-8.1-9-1 (July 1, 2007) requires the department to hold a hearing if the taxpayer requests a hearing concerning a claim for refund.

IC 6-8.1-9-14 (July 1, 2007) provides that the Department may not assess a fee to a state agency or a custodial parent for seeking a setoff to a state tax refund for past due child support.

IC 6-8.1-9.5-10 (July 1, 2007) provides that the Department may not assess a fee to a custodial parent or state agency for seeking a setoff to a state tax refund for past due child support.

IC 6-8.1-10-1 (July 1, 2007) provides that the interest rate that the Department charges on a tax deficiency and the interest rate that the Department pays on an excess tax payment will be the same, and requires the treasurer of state to notify the commissioner on or before October 1, the average investment yield of the state for the previous fiscal year.

IC 6-8.1-10-2.1 (January 1, 2008) provides a penalty of \$500 for a partnership or S corporation that fails to file a composite return for all nonresident shareholders.

Innkeepers' and Food & Beverage Taxes

IC 6-9-2-2 (January 1, 2008) changes the method of distribution of the Lake County Innkeepers' Tax.

IC 6-9-2.5-6 (July 1, 2007) authorizes Vanderburgh County to increase its maximum innkeepers' tax rate from 6% to 8%.

IC 6-9-2.5-7.5 (July 1, 2007) provides that from July 1, 2007 through December 31, 2009, the Vanderburgh County treasurer shall deposit in the tourism capital improvement fund the amount of revenue generated from a 3.5% rate, and from January 1, 2010 the fund will receive the amount of tax generated from a rate of 4.5%.

IC 6-9-9-3 (July 1, 2007) authorizes Allen County to increase its innkeepers' tax from 6% to 7% with the increase used to provide grants to the convention and visitor bureau.

Motor Carrier Services

IC 8-2.1-17-2, IC 8-2.1-17-7.5, and IC 8-2.1-17-9.1 (January 1, 2007 - Retroactive) defines freight forwarders, brokers and leasing companies.

IC 8-2.1-20-4 (January 1, 2007 - Retroactive) provides that freight forwarders, brokers, and leasing companies are subject to regulation by the Department if they hold themselves out as a provider of transportation of property for compensation.

IC 8-2.1-20-9, (January 1, 2007 - Retroactive) provides that if there is a conflict between Indiana law and the unified carrier registration system and the regulations adopted by the United States Secretary of Transportation, the federal statute and regulations control.

IC 8-2.1-24-3 (January 1, 2007 - Retroactive) provides that household movers, transporters of non liquid bulk fertilizers, trucks transporting chemicals for snow removal, and aggregate transporters whose trucks weigh less than 46,000 pounds will be subject to the statutes regulating motor carriers that operate intrastate.

IC 8-2.1-24-4 (January 1, 2007 - Retroactive) provides that the Department may certify a motor carrier transporting passengers and may regulate and supervise safety, insurance, methods and hours of operation of a motor carrier providing transportation of passengers.

IC 8-2.1-24-18 (Upon Passage) incorporates federal regulations concerning drug and alcohol testing, consumer protection regulations for interstate household movers, and special training requirements for longer combination vehicles into the motor carrier laws. The bill also provides that a person engaged in the construction business is not required to have a commercial driver's license.

IC 8-2.1-24-21 (January 1, 2007 - Retroactive) specifies in the statute that a motor carrier shall display a United States Department of Transportation number on each motor vehicle that the motor carrier operates.

Miscellaneous Provisions

IC 4-33-19 (July 1, 2007) creates the license control division within the gaming commission. The division is established to conduct administrative enforcement actions against licensed entities engaged in unlawful gambling. A licensed entity includes a holder of a retail merchant's certificate. The division will conduct a license revocation hearing on behalf of the Department. A memorandum of understanding between the commission and the Department is required to authorize the division's license revocation actions. The memorandum of understanding must be completed before January 1, 2008. The memorandum of understanding must describe the responsibilities of each participating agency.

IC 4-35-8-1 (Upon Passage) creates the slot machine wagering tax and requires the tax to be remitted to the Department on a daily basis. The deposit must be made by the close of the business day following the day the wagers were made. The Department may require the payments to be made by electronic funds transfer, and allow the licensee to file a monthly report to reconcile the amounts remitted to the Department. The payment of the tax shall be on a form prescribed by the Department. The money from the slot machine tax shall be deposited by the Department in the property tax reduction trust fund.

IC 5-22-16-4 (July 1, 2007) eliminates the provision that a person selling services to the state must get a tax clearance from the Department. The clearance is still required for a person selling tangible personal property.

IC 9-18-2-26 (July 1, 2007) provides that a license plate on a dump truck shall be displayed on the front of the vehicle.

IC 9-28-4-6 (July 1, 2007) clarifies the due date for vehicles registered under the International Registration Plan to be due within 15 days after the mailing date on the bill.

IC 9-29-5-6 (July 1, 2007) repeals the annual \$2.00 renewal fee for a permanent semi trailer registration.

IC 15-4-10-24.5 (July 1, 2007) provides that the corn market development account will reimburse the state for the E85 sales tax deduction. Annually beginning on July 1, 2008 the budget agency shall transfer from the corn market development account an amount equal to the lesser of 25% of the amount in the account, or the sum of all deductions allowed for the E85 sales tax deduction.

Noncode provisions

SEA 5, SECTION 1 (July 1, 2007) extends the nursing home quality care assessment fee from August 1, 2007 until August 1, 2009.

SEA 500, SECTION 50 (Upon Passage) requires the commissioner to revise any schedule specifying the adjusted rate of interest for excess tax payments to comply with IC 6-8.1-10-1. The revised schedule takes effect July 1, 2007.

SEA 500, SECTION 54 (January 1, 2007 - Retroactive) provides that a retail merchant that accepted Form ST-135 as a sales tax exemption certificate for a person engaged in transportation can request a refund for taxes, penalties, and interest paid to the Department or request the Department to satisfy any outstanding liabilities. These options are available until December 31, 2008.

SEA 502, SECTION 17, (July 1, 2008) is added to provide that the governor and commissioner shall take the steps necessary for Indiana to become an associate member of the Multistate Tax Commission. The section also requires the Department to make a separate budget request for the cost of the associate membership for the 2009-2011 biennium.

HEA 1456, SECTION 4 (Upon Passage) provides that the exemption provided in IC 6-2.3-4-6 (Utility Receipts Tax) does not mean that the gross receipts were taxable before the enactment of this exemption.

HEA 1478, SECTION 142 (Upon Passage) provides that any ordinance adopted between January 1, 2007 and April 1, 2007, concerning CAGIT, COIT, or CEDIT that was to be effective on July 1, 2007 will be effective on October 1, 2007.

HEA 1478, SECTION 145 (Upon Passage) provides that if Monroe County adopts an ordinance to impose the additional COIT authorized, the tax will take effect on July 1, 2007 or 15 days after the Department receives a notice that the ordinance was adopted, whichever is later.

HEA 1478, SECTION 146 (January 1, 2007 - Retroactive) provides that an ordinance adopted before April 29, 2007 by Howard County, and that provided for a rate that was less than 0.25% is legalized and validated.

HEA 1678, SECTION 54 (July 1, 2007) provides that revenue stamps paid for before July 1, 2007 and in the possession of a distributor may be used if the full amount of the tax increase is remitted to the Department.

HEA 1693, SECTION 20 (January 1, 2007 - Retroactive) repeals IC 8-2.1-21 which regulated armored car companies that are now regulated under IC 8-2.1-24-18.